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NO. 83-1796

IN THE SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.

FILED

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ALEXANDER L. STEWAS,  
CLERK

OCTOBER TERM, 1983

STATE OF ALABAMA, PETITIONER

VS.

LEWIS L. GANNAWAY, RESPONDENT

ON PETITION FOR A WRIT OF  
CERTIORARI TO THE SUPREME COURT AND  
COURT OF CRIMINAL APPEALS OF ALABAMA

SUPPLEMENT TO THE PETITION

OF

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SUPPLEMENTAL REASON FOR GRANTING  
THE WRIT: CONFLICT WITH SEGURA V.  
UNITED STATES ( U.S. [1984] ),  
DECIDED JULY 5, 1984.

As outlined in the Petition, the officers went to the Respondent's house to serve a valid search warrant. Although the officers' conduct in serving the warrant was found by the state courts to be "...no more and no less than what would have been expected of general business or social visitors...."

(Gannaway v. State, 448 So.2d 409, 412

[Cr.App.Ala., 1983] and Ex parte:

Gannaway, 448 So.2d 413, 414 [S.Ct.Ala., 1984]), it was nonetheless in technical

violation of state law. Ex parte:

Gannaway, above. The basic issue in this case is whether the Fourth Amendment requires suppression of evidence found pursuant to a valid warrant, which is served after an illegal entry by the serving officers.

In Segura v. United States (\_\_\_ U.S. \_\_\_, \_\_\_ L.Ed.2d \_\_\_, \_\_\_ S.Ct. \_\_\_, 52 U.S. L.Wk. 5128 [1984]), decided July 5, 1984, this Honorable Court decided that an illegal entry and seizure of a home did not, under the Fourth Amendment, require the suppression of evidence found in a subsequent search under a valid warrant. The search was held to be legal in Segura, because the warrant was based on information obtained prior to the illegal entry and was not, therefore, based on the illegality, even though the warrant was issued after the illegal entry. In the instant case, the valid warrant was issued prior to the entry. Since an effect cannot proceed its cause, the warrant was obviously not based on the entry.

The decision and opinion of the Honorable Supreme Court of Alabama cannot



be reconciled with this Honorable Court's decision in Segura.

### CONCLUSION

In conclusion, the Petitioner, the State of Alabama, again respectfully submits that the decisions and opinions of the Honorable Supreme Court of Alabama in this case and of the Court of Criminal Appeals conforming thereto, present conflicts with prior decisions and opinions of this Honorable Court and incorrectly resolved several novel questions under the Fourth Amendment. For these reasons, the Petitioner again prays that this Honorable Court will issue the writ of certiorari and review the decisions and opinions of the Honorable Appellate Courts of Alabama and on such review will reverse the decisions of

said Courts to the extent that the same hold that the conduct of the officers in this case violated the Fourth Amendment or, in the alternative, will remand this cause for reconsideration in light of Segura v. United States, above.

Respectfully submitted,

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CHARLES A. GRADDICK  
ATTORNEY GENERAL

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GERRILYN V. GRANT  
ASSISTANT ATTORNEY GENERAL

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JOSEPH G. L. MARSTON, III  
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CERTIFICATE OF SERVICE

I, Joseph G. L. Marston, III, an Assistant Attorney General of Alabama, a member of the Bar of the Supreme Court of the United States and one of the Attorneys for the State of Alabama, Petitioner, do hereby certify that on this \_\_\_\_\_ day of July, 1984, I did serve the requisite number of copies of the foregoing on the Attorneys for Lewis L. Gannaway, Petitioner, by mailing same to them, first class postage prepaid and addressed as follows:

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Hon. Donald W. Stewart  
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